

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**In re: RealPage, Inc., Rental Software  
Antitrust Litigation (No. II)**

**Case No. 3:23-md-03071  
MDL No. 3071**

**Judge Waverly D. Crenshaw, Jr.**

**This Document Relates to:  
All Cases**

**NOTICE OF SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF DEFENDANTS' MOTION TO STAY  
ALL DISCOVERY PENDING RULING ON MOTIONS TO DISMISS**

Defendants respectfully submit this Notice of Supplemental Authority in support of their pending Motion to Stay Discovery (Dkt. 348).<sup>1</sup> Last week, the U.S. District Court for the District of Nevada issued a decision staying discovery pending resolution of motions to dismiss in an antitrust case arising out of claims that “certain Las Vegas hotels used a common third-party algorithm to artificially inflate hotel prices.” See Exhibit 1, Order at 1, *Gibson v. MGM Resorts Int’l*, No. 2:23-cv-00140-MMD-DJA (D. Nev. July 11, 2023), Dkt. 129. Defendants had agreed to certain limited discovery<sup>2</sup> and the order stayed all other discovery.

In *Gibson*, the court held that a stay of discovery was “appropriate” because (1) “the dispositive motions—because they are on the pleadings—can be decided without further discovery” and (2) “[d]efendants . . . established good cause by pointing to the burden and expense of discovery.” *Id.* at 7. The court found that the second factor “is particularly poignant given the

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<sup>1</sup> Defendants file this Notice of Supplemental Authority to provide Plaintiffs with an opportunity to address this authority in their opposition brief. In addition, certain Defendants have filed motions to dismiss for lack of personal jurisdiction and submit this Notice subject to and without waiver of those arguments.

<sup>2</sup> One defendant had not previously agreed to any discovery and the court required that defendant to provide the same limited discovery as the other defendants.

Supreme Court and Ninth Circuit’s discussions cautioning district courts to remain cognizant of the burdens that anti-trust discovery can cause. And, while not binding on this Court, it is persuasive that California district courts have considered the burdens of discovery carefully when deciding motions to stay in anti-trust cases.” *Id.* Finally, the court found that it was “unclear what prejudice Plaintiffs would face by the discovery stay” because Defendants “agreed to respond to two of Plaintiffs’ interrogatories, provide organizational charts in response to a request for production, and negotiate an ESI and protective order while the motion to dismiss is pending.” *Id.*

Respectfully submitted on this 19th day of July, 2023,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on July 19, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record registered on the CM/ECF system.

DATED this 19th day of July, 2023.

/s/ David D. Cross

David D. Cross